

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA

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Anthony L. Mann,

Plaintiff,

v.

Lt. C. Failey; Maj. Sheronda Sutton; Warden Robert
Stevenson, III; Asst. Warden John Barkley; Inv. David
Hurt; Valerie Whitaker; Classification Mngr Macon;
Donald Sampson, MD; Robyn Elerby; E. Keitt; James
Harris, III; Capt. Percy Jones; Capt. Wilson; Lt. Willie
Simmons; Lt. T. Johnson; Sgt. Belue; Sgt. Young; Sgt.
Herman Wright; Sgt. Keith Moore; Cpl. Otis Daniels;
Cpl. Vincent Manley; Cpl. Smalls; Cpl. Ray; Ofc.
McNeal; Ofc. Cox; Christian Manganelli; and C. Cook,

Defendants.

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C/A No. 0:11-2232-RMG

ORDER

This matter is before the Court on Plaintiff's "Motion for Order of Separation." (Dkt. No. 103). For the reasons set forth below, Plaintiff's motion is denied.

Background

Plaintiff brings this *pro se* action pursuant to 42 U.S.C. § 1983. Pursuant to 28 U.S.C. § 636(b) and Local Civil Rule 73.02(B)(2) DSC, the case was automatically referred to the United States Magistrate Judge for all pretrial proceedings. On September 4, 2012, the Magistrate issued a Report and Recommendation recommending that this Court deny Plaintiff's motion for an "Order of Separation." (Dkt. No. 135). The Magistrate Judge instructed Plaintiff of the deadline for filing objections to the Report and Recommendation and the serious consequences for failing to do so. (*Id.* at 5). Nevertheless, Plaintiff did not file any objections to the Report and Recommendation. As explained herein, the Court agrees with and adopts the Magistrate's Report and Recommendation.

Law/Analysis

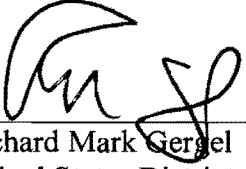
The Magistrate Judge makes only a recommendation to this Court. The recommendation has no presumptive weight, and the responsibility for making a final determination remains with this Court. *Mathews v. Weber*, 423 U.S. 261, 270-71 (1976). This Court is charged with making a *de novo* determination of those portions of the Report and Recommendation to which specific objection is made. Additionally, the Court may “accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge.” 28 U.S.C. § 636(b)(1). This Court may also “receive further evidence or recommit the matter to the magistrate judge with instructions.” *Id.* In the absence of specific objections to the Report and Recommendation, this Court is not required to give any explanation for adopting the recommendation. *Camby v. Davis*, 718 F.2d 198, 200 (4th Cir. 1983).

This Court finds the Magistrate properly treated Plaintiff’s motion as a request for preliminary injunctive relief for transfer to a different prison facility. A plaintiff seeking a preliminary injunction must show: (1) he is likely to succeed on the merits; (2) he is likely to suffer irreparable harm in the absence of preliminary relief; (3) the balance of equities tips in his favor; and (4) an injunction is in the public interest. *Winter v. Natural Res. Def. Council, Inc.*, 555 U.S. 7, 20 (2008). After reviewing the record of this matter, the applicable law, and the Report and Recommendation of the Magistrate Judge, the Court agrees with and adopts the conclusion of the Magistrate. Plaintiff’s unsupported allegations of abuse which would warrant a transfer are unlikely to succeed on the merits, and therefore do not warrant the extraordinary relief Plaintiff seeks. Additionally, without a record to show that he has been abused in the past by the Respondents, this Court cannot conclude that he will be likely to suffer irreparable harm if his request for a preliminary injunction is denied. *Id.* at 22.

Conclusion

For the reasons stated above, the Court agrees with and adopts the Magistrate's Report and Recommendation and therefore **DENIES** Plaintiff's motion (Dkt. No. 103).

AND IT IS SO ORDERED.



Richard Mark Gergel
United States District Court Judge

October 9, 2012
Charleston, South Carolina